

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations,
(Caldwell, College Station and
Gause, Texas)

)
)
) MM Docket No. 91-58
)
) RM-7419
) RM-7797
) RM-7798

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

**REPLY TO OPPOSITION OF ROY E. HENDERSON
TO MOTION TO CONSIDER COMMENTS**

Bryan Broadcasting License Subsidiary, Inc., licensee of station KTSR(FM), College Station, Texas (hereinafter "KTSR") hereby replies to the Opposition of Roy E. Henderson ("Henderson"), the permittee of KLTR in Caldwell, Texas, to the Motion to Consider Comments filed by KTSR on May 18, 1999. In its Motion, KTSR indicated that, due to an inadvertent error, it had failed to serve its April 29, 1999 Supplemental Comments on counsel for Henderson, the other allotment proponent in this proceeding, as required under Section 1.420 of the Commission's rules and specified in the Commission's public notice.^{1/} KTSR indicated further that it was not aware of this regrettable omission until receiving Henderson's "Reply Comments in Response to Judicial Remand" on May 14, 1999. KTSR urged the Commission to consider its comments despite this omission, however, since such consideration would benefit the public interest and be consistent with Commission precedent. Finally, KTSR suggested that the Commission could safeguard Henderson from prejudice by granting him an additional two weeks from the date of the Motion to respond to the merits of KTSR's April 29 comments.

Predictably, Henderson opposed KTSR's Motion and, in doing so, took the opportunity to

^{1/} These comments were filed in response to the Commission's "Request for Supplemental Comments in Response to Court Remand," (April 9, 1999).

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launch additional attacks on KTSR's character. Specifically, Henderson implied that KTSR either did not believe it was necessary to serve him or purposefully failed to serve him,^{2/} and claimed that it was "arrogant" of KTSR to suggest that Henderson be given an extra two weeks from the date of its Motion to respond to KTSR's Motion. Opposition at 3-4. These characterizations are entirely inaccurate, and betray Henderson's conspiratorial mindset. First, KTSR's failure to serve Henderson resulted from an unfortunate oversight by its counsel's support staff; this error was truly regrettable, and KTSR and its counsel did not learn of this omission until receiving Henderson's May 14 reply. Any suggestion that KTSR failed to serve Henderson in order to gain an advantage is patently ridiculous, and should be rejected. Second, in suggesting a two-week deadline for Henderson, KTSR was merely proposing one alternative remedy to the Commission. KTSR believes that it was a reasonable approach, as it was the same time period which he would have had to respond had KTSR's comments been properly served. KTSR is, of course, flexible on this point and would consent to any reasonable extension requested by Henderson for preparation of a response.

KTSR maintains that grant of its motion is consistent with Commission precedent and the public interest, and that such action will enable the Commission to consider all of the relevant facts before coming to a decision in this decade-long proceeding. The whole point of the judicial remand is to fully explore all of the issues of importance regarding this proceeding. To ignore the comments of one of the parties because of this regrettable, inconsequential procedural error would result in the record not being a complete one. Surely, the Commission does not want to

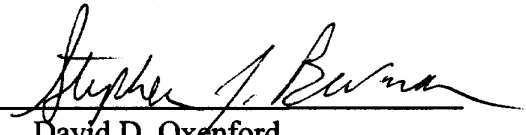
^{2/} In his Opposition, Henderson states the following: "[W]e cannot ignore the fact that Bryan received service on Comments not just from Henderson but also from KRTS. Is it unreasonable to think that this alone should have been sufficient to alert someone that any Comments filed by Bryan should also be served?" Opposition at 4.

return to the Court with an incomplete record, which would be the result of Henderson's suggestion. Henderson's position is unreasonable and unnecessary, and should be rejected.

Respectfully submitted,

**BRYAN BROADCASTING LICENSE
SUBSIDIARY, INC.**

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Dated: June 2, 1999

CERTIFICATE OF SERVICE

I, Elinor McCormick, do hereby certify that I have this 2nd day of June, 1999, mailed by first-class United States mail, postage prepaid, copies of the foregoing **"Reply to Opposition of Roy E. Henderson to Motion to Consider Comments"** to the following:


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